

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CLAUDIA M. FLOREZ, and JULIO C.)	
FLOREZ, husband and wife; and HERNANDO)	No. C11-02088 JCC
AMAYA GIL, a single man all as joint tenants,)	
)	
Plaintiffs,)	JOINT STATUS REPORT
)	AND DISCOVERY PLAN
v.)	
)	
ONEWEST BANK, F.S.B., NORTHWEST)	
TRUSTEE SERVICES, INC., and MORTGAGE)	
ELECTRONIC REGISTRATION SYSTEMS,)	
INC.,)	
)	
Defendants.)	

Pursuant to Fed. R. Civ. P. 26(f) and LCR 16, the Parties, through their undersigned counsel, submit this Joint Status Report and Discovery Plan.

I. NATURE AND COMPLEXITY OF THE CASE

A. Plaintiffs' Statement of the Case

Plaintiffs bring a claim for wrongful foreclosure along with other associated claims. On or about January 5, 2007, the plaintiff homeowners executed a Mortgage Promissory Note and Deed of Trust with IndyMac Bank so as to purchase a home located at 4520 South 220th Street, Kent, WA 98032. The loan was assigned to OneWest. The property has been foreclosed.

Plaintiffs assert a series of violations against the Defendants. These violations include wrongful foreclosure, Consumer Protection violations, infliction of emotional distress and fraud, which altogether resulted in the wrongful foreclosure of the subject property.

B. Defendants' Statement of the Case

Defendants assert they had authority to foreclose and did so properly, Plaintiffs waived some of their claims, and Plaintiffs fail to state claims upon which relief may be granted.

II. STATUS OF MATTERS PRESENTLY SET BEFORE THE COURT

Defendants OneWest Bank and Mortgage Electronic Registration Systems filed a motion to dismiss on January 19, 2012, noted for consideration on February 10, 2012 [Dkt. 11]. Northwest Trustee Services joined in that motion on January 20, 2012 [Dkt. 12]. Plaintiffs filed their response on February 6, 2012 [Dkt. 14], and Defendants filed their reply on February 10, 2012 [Dkt. 15]. The motion remains pending before the Court.

III. ALTERNATIVE DISPUTE RESOLUTION

The Parties agree that mediation is an appropriate ADR method that should be used.

IV. TIMING OF ALTERNATIVE DISPUTE RESOLUTION

The Parties agree that mediation is not appropriate until after the Parties complete discovery.

V. PROPOSED DEADLINE FOR JOINING ADDITIONAL PARTIES

The Parties propose that June 13, 2012, be the deadline to join additional parties.

VI. DISCOVERY PLAN

A. Fed. R. Civ. P. 26(f) Conference

Pursuant to Fed. R. Civ. P. 26(f), the Parties met and conferred on March 9 and 12, 2012.

B. Fed. R. Civ. P. 26(a) Disclosures

1. Fed. R. Civ. P. 26(a)(1) Initial Disclosures

The Parties anticipate they will provide initial disclosures by March 27, 2012, pursuant to Fed. R. Civ. P. 26(a)(1)(C).

2. Fed. R. Civ. P. 26(a)(2) Expert Testimony Disclosures

The Parties anticipate an expert cutoff date of August 13, 2012, 30 days before the proposed discovery cutoff date, to permit the Parties 30 days from disclosure to provide rebuttal experts (if any). Fed. R. Civ. P. 26(a)(2)(D).

C. Subjects of Discovery

The Parties anticipate the subjects of discovery may include Plaintiffs' loan file and communications with OneWest Bank, and the foreclosure file. The Parties do not anticipate a need to conduct discovery in phases. Defendants do not foresee deposing persons other than Plaintiffs. Plaintiffs intend on deposing the person or persons employed at OneWest and NW Trustee Services who are most knowledgeable of the plaintiff's loan/foreclosure.

D. Management, Limitations, or Modifications of Discovery

The Parties agree that discovery should be conducted pursuant to the Federal Rules of Civil Procedure and Local Rules for the Western District of Washington. The Parties do not currently see a need to change the discovery limitations imposed by those rules. If the Parties determine at a later date that discovery limitations should be adjusted, the parties may stipulate to adjusted limitations. The Parties agree to cooperate in good faith in discovery, to use best efforts to comply with discovery requests, and to act reasonably in propounding discovery. Defendants may seek a protective order at a later date. Plaintiffs may or may not agree with Defendants' request. The Parties will cooperate to resolve any discovery disputes before submitting them to the Court. Defendants believe discovery should be stayed until the Court's ruling on their motion to dismiss.

E. Other Orders to Be Entered by the Court

The Parties do not have any discovery orders that currently need to be entered by the Court.

VII. DISCOVERY COMPLETION

The Parties agree that discovery can be completed by September 13, 2012.

VIII. CONSENT TO MAGISTRATE JUDGE

The Parties do not consent to a Magistrate Judge conducting all pre-trial proceedings.

IX. BIFURCATION

The Parties agree that bifurcation is not appropriate for this matter.

X. PRETRIAL STATEMENTS AND ORDERS

At this time the parties do not believe the pretrial statements and pretrial order called for by Local Rules CR 16(e), (h), (i), and (l), and 16.1 should be dispensed with in whole or in part for the sake of economy.

XI. SUGGESTIONS FOR SHORTENING OR SIMPLIFYING THE CASE

The Parties do not currently have suggestions for shortening or simplifying the case.

XII. TRIAL DATE

The Parties propose a trial date of January 13, 2013.

XIII. TRIAL TYPE

Plaintiffs seek a jury trial; jury demand filed on December 19, 2011 [Dkt. 9].

XIV. LENGTH OF TRIAL

The Parties anticipate trial will last 3-5 days.

XV. COUNSEL FOR THE PARTIES

Plaintiffs are represented by Charles M. Greenburg and Wesley Foreman, who may be contacted at Triad Law Group, 209 Dayton Street, Suite 105, Edmonds, WA 98020-8402. Counsel's phone number is (425) 774-0138.

Defendants OneWest Bank and Mortgage Electronic Registration Systems are represented by Fred B. Burnside and Rebecca Francis, both of whom may be contacted at Davis Wright Tremaine, 1201 Third Avenue, Suite 2200, Seattle, Washington 98101. Mr. Burnside's phone number is (206) 757-8016. Ms. Francis's phone number is (206) 757-8285.

Defendant Northwest Trustee Services is represented by Heidi E. Buck, who may be contacted at Routh Crabtree Olsen, P.S., 13555 SE 36th Street, Suite 300, Bellevue, WA 98006. Ms. Buck's phone number is (425) 458-2121.

XVI. SERVICE OF PROCESS

All of the Parties have been served.

XVII. SCHEDULING CONFERENCE

The Court has set a scheduling conference for April 3, 2012 [Dkt. 6].

DATED this 13th day of March, 2012.

Davis Wright Tremaine LLP
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and Mortgage Electronic Registration Systems,
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CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system. All other parties (if any) shall be served in accordance with the Federal Rules of Civil Procedure.

DATED this 13th day of March, 2012.

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